

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13371 of Pennsylvania Avenue Development Corporation and Quadrangle Development Corporation, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Sub-section 3308.2 to permit a roof structure with walls of unequal height and not in one enclosure, and for a variance from the open court width requirements (Sub-section 5305.1) to construct an addition to an existing retail, office and theater building in a C-5 District at the premises 1301, 21 and 31 Pennsylvania Avenue, N. W., (Square 254, Lots 22, 23, 43, 49, 50, 803-812 and 821 and public alleys to be closed).

HEARING DATE: November 12, 1980

DECISION DATE: November 12, 1980 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located in the C-5 PAD District in Square 254. The site has four street frontages on Pennsylvania Avenue, F Street, 13th Street, and 14th Street.

2. The subject property is improved with a recently constructed office/retail building known as 1301 Pennsylvania Avenue located in the southeast corner of the block and the National Theatre building located at 1321 Pennsylvania Avenue, which the applicant and developers of the block intend to preserve.

3. The buildings referenced above are presently being used for retail, office and theatre purposes. The developers intend to construct an addition to these buildings and to provide a mixed use development, all to be constructed as a single building under the Zoning Regulations. The addition will contain approximately 780 hotel rooms and will provide approximately 75,000 net square feet of retail space and approximately 450,000 net square feet of office space. Parking will be provided by means of an underground parking garage containing approximately 500 spaces.

4. The subject property is located within the planning jurisdiction of the Pennsylvania Avenue Development Corporation (PADC). The PADC has adopted a development plan known as the Pennsylvania Avenue Plan - 1974 which became effective on May 19, 1975. The PADC is empowered by the provisions of the Pennsylvania Avenue Development Corporation Act, 40 U.S.C. Sec/ 871 et seq., to establish restrictions, standards and other requirements that will assure conformance to the plan.

5. In the exercise of its authority, PADC has developed a plan for Square 254. The plan calls for consolidated development of the square with coordinated traffic circulation and a unified loading and service facility. The plan also recommends that the existing National Theatre be preserved and that new development provide a mix of office, retail and hotel uses.

6. Based on PADC's recommendations, the Square 254 Limited Partnership submitted a proposal for consolidated development with mixed uses and were selected by PADC as the developer for the square. The partnership's proposal permits a more cohesive development with coordinated traffic circulation and a unified loading and service facility. Additionally, the proposal calls for the preservation of the existing National Theatre and provides the office, retail and hotel uses recommended by PADC for the square. The construction will proceed in phases with the new construction at 1331 Pennsylvania Avenue commencing first.

7. Paragraph 3308.12 of the Zoning Regulations requires that all penthouses and mechanical equipment be placed in one enclosure and that the enclosing walls be of the same height. In the present case, there are three structures of varying heights which will form one building. The fact that there are three discrete structures of varying heights makes it impossible to place all roof structures in one enclosure. Further, because the existing roof structures on the National Theatre, which will be preserved, are of varying heights, relief is needed from the requirement that the enclosing walls be of the same height.

8. Sub-section 3308.2 of the Zoning Regulations provides in pertinent part as follows:

"Where impracticable because of operating difficulties, size of building lot or other conditions relating to the building or surrounding area which would tend to make full

compliance unduly restrictive, prohibitively costly or unreasonable, the Board of Zoning Adjustment is empowered to approve the location and design of any or all of such structures..., and to approve the material of enclosing construction used if not in accordance with Paragraph 3308.12..."

9. Taken individually, the structure located at 1301 Pennsylvania Avenue fully complies with the Regulations. The proposed addition at 1331 Pennsylvania Avenue, however, does not comply with the requirement that all roof structures be placed in one enclosure.

10. Operational factors justify the location of stairways and elevator cores within the building. In this case, because of the turn in the building to preserve the National Theatre, the stairways and elevator cores, and thus the roof structures, cannot be relocated without causing operating difficulties.

11. Because of the location of the penthouses, it is impractical to require that they be placed in one enclosure. To comply, applicants would have to build a cantilevered roof at a cost of at least \$50,000. This would not only increase the roof coverage, but would decrease light and air.

12. The existing National Theatre building located at 1321 Pennsylvania Avenue does not meet the requirement that all roof structures be placed in one enclosure. Additionally, the roof structures are of varying heights. Because of these existing conditions, a special exception is needed. To require applicants to bring these roof structures in compliance with the Regulations, would not only be costly and unreasonable, but would create operating difficulties for the theatre.

13. The intent of Section 3308 is to provide reasonable review over roof structures. In this case, the proposed roof structures will be lower in height than permitted under the Zoning Regulations. The proposed roof structures will also not be visible from either Pennsylvania Avenue or 14th Street.

14. The light and ventilation of the adjacent building will not be affected in any way. To require the roof structures to conform, on the other hand, might significantly decrease light and ventilation.

15. The nonconforming roof structure on the National Theatre has been in existence for some time and there has been no evidence of any adverse affect on surrounding properties.

16. In all other respects the roof structures strictly comply with the Zoning Regulations. Specifically, the roof structures serve the building for its stairway and mechanical equipment including cooling tower, water pump, fans and water heater, and elevator override. These are the normal functions of a roof structure. Further, the material of the roof structures blends harmoniously with the facade of the building.

17. The developers also requested a variance from the open court width requirements of Sub-section 5305.1. Although the court provided is in fact greater in area than that required by the Regulations, a portion of the court technically does not meet the requirements.

18. In proposing to construct this addition on the subject property, the developers are confronted with several unique and unusual circumstances. First, the subject site is exceptionally large, encompassing approximately 148,325 square feet.

19. Additionally, the subject site is improved with two existing buildings, 1301 Pennsylvania Avenue and the National Theatre. The subject proposal is intended to preserve the existing National Theatre and to build around both it and 1301 Pennsylvania Avenue. Because of the location of these structures, an unusual and exceptional situation is created impacting on the design of the addition.

20. The subject property is also unique by reason of the design review authority conferred upon PADC. Certification by PADC must be a matter of record prior to the issuance of a building permit.

21. Because of the location of existing buildings and the desire to preserve the National Theatre, it was necessary to turn the proposed addition, creating an unusual configuration. This configuration prevents a double-loaded corridor extending out to 13th Street and creates design problems in terms of the exterior spatial arrangement.

22. The design constraints imposed by PADC coupled with the existing structures on the site make it practically difficult to provide the required court width. Full compliance would require the shift of elevator cores, which would impact on the ballroom space and create fire egress problems.

23. Additionally, to provide the required court width would adversely impact on traffic circulation and impair the integrated block design.

24. The proposed addition has been specifically designed so as to avoid any possible adverse impact. Adequate light and ventilation is provided and the addition is under the permitted floor area ratio.

25. The portion of the open court which is not strictly in compliance with the Regulations is actually part of a larger court which far exceeds the minimum dimensions.

26. The proposed addition carries out the development proposals set forth in the Pennsylvania Avenue Plan - 1974 and conforms to the requirements established by PADC in its Development Prospectus for Square 254.

27. The Pennsylvania Avenue Development Corporation, by statement dated November 12, 1980 and by testimony at the hearing, supported the application. The Corporation advised the Board that the proposed design of the project has been subject to rigorous review by the Corporation to assure its compliance with the Pennsylvania Avenue Plan - 1974. Relief in this regard would further the public interest in that it would facilitate timely implementation of this very important project, a project that has been actively pursued by the Corporation and other public bodies for over three years. The Board agrees.

28. Advisory Neighborhood Commission 2-C did not report on this application.

29. There was no opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicants have met their burden of proof for the special exception requested. The Board concludes that because of the turn in

the building to preserve the National Theatre, the stairways and elevator cores and thus the roof structures, cannot be relocated without causing operating difficulties. The Board further concludes that because of the location of the pent-houses, on separate elements of what is considered one building, it is impractical to require that they be placed in one enclosure. To comply, the applicants would have to build a cantilevered roof that would not only increase the roof coverage, but would decrease light and air. The Board further concludes that the light and ventilation of the adjacent buildings will not be affected in any way.

The requested variance is an area variance, the granting of which requires the showing of a practical difficulty. The Board concludes that several extraordinary or exceptional situations or conditions affect the subject site. These include the size of the site, the location of existing structures, and the design review authority conferred upon PADC. The Board further concludes that because of the design constraints imposed by PADC and the existing structures, it is practically difficult to provide the required court width. The Board notes that the open court which does not comply with the Regulations is actually part of a larger court which far exceeds minimum dimensions. The Board concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (Walter B. Lewis, Connie Fortune, William F. McIntosh and Douglas J. Patton to grant; Charles R. Norris not present, not voting).

BY ORDER OF THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



Steven E. Sher
Executive Director

FINAL DATE OF ORDER:

12 JAN 1981

Under Sub-section 8204.3 of the Zoning Regulations, "No decision or order of the Board shall take effect until ten days after having become final pursuant to the Supplemental Rules of Practice and Procedure Before the Board of Zoning Adjustment..."

BZA ORDER 13371

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THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.